

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,: CASE NO.: 5:95 CV 801

Plaintiff, : MAG. JUDGE: Patricia A. Hemann
vs. : **UNOPPOSED MOTION OF**
UNION CHEESE COMPANY, et al. : **GUGGISBERG CHEESE, INC.**
Defendants. :

NOW COMES Guggisberg Cheese, Inc. ("Guggisberg"), successor in interest to Defendant Union Cheese Company, by and through its undersigned counsel, to hereby move this Court for an order modifying the permanent injunction entered herein by Judgment Entry filed June 23, 1995, on grounds that the prerequisites for lifting said injunction set forth in this Court's Findings of Fact and Conclusions of Law filed June 16, 1995, have been met. Plaintiff, United States of America, does not oppose this Motion.

Guggisberg is the successor in interest to Defendant Union Cheese Company by reason of having purchased substantially all the assets of the cheese manufacture and distribution facility located at 1545 County Road 70, Sugarcreek, Ohio (the "Facility"), on September 18, 1996. Since that time Guggisberg has diligently worked to remedy the conditions which existed at the Facility when it was operated by Defendants which led to this proceeding, and to satisfy all of the conditions and restrictions set forth in this Court's June 16, 1995, Findings of Fact and Conclusions of Law.

Approximately one year ago, on or about April 13, 2006, Guggisberg filed a Motion to Vacate Injunction, asserting that it had met all these prerequisites. Following discussions with

Plaintiff, Guggisberg and Plaintiff jointly filed a Statement of Agreement to Rescind Motion to Vacate Injunction on or about June 26, 2006. Therein, the parties agreed that Guggisberg would perform and submit another year of quarterly tests to FDA, and if those tests were acceptable, then Guggisberg could re-file its Motion without opposition from Plaintiff. That testing has occurred, and Plaintiff has authorized Guggisberg to proceed with this renewed motion.

Specifically, this Court enjoined Defendants Union Cheese Company, Dominic F. Gangale, and Annette M. Gangale, and their successors from “directly or indirectly causing (a) the introduction or delivery for introduction into interstate commerce of any article of food, and (b) the receipt, manufacture, preparation, packing, distribution, or holding of any article of food, while it is held for sale after it or one or more of its components have been shipped in interstate commerce, unless and until” an extensive list of prerequisites was fulfilled.

Guggisberg seeks to have the foregoing injunction modified so as to be vacated as to Guggisberg and its successors. Said injunction would remain intact as to the original Defendants and all other persons or entities encompassed thereby.

Therefore, Guggisberg respectfully requests that this Court modify its prior injunction as requested herein.

Respectfully Submitted,

**CRITCHFIELD, CRITCHFIELD
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Approved:

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